

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ERROL T. WILEY,

Petitioner,

v.

MARK CAPOZZA,

Respondent.

Civil Action

No. 21-cv-2798

ORDER

AND NOW, this 20th day of May, 2024, upon consideration of a Report and Recommendation by the Honorable Richard A. Lloret (ECF No. 27), and Petitioner's objections thereto (ECF Nos. 30, 35), it is hereby **ORDERED** that:

1. The Report and Recommendation (ECF No. 27) is **ADOPTED**.
2. Petitioner's objections are overruled, substantially for the reasons stated by Judge Lloret.¹
3. The petition for a writ of habeas corpus (ECF No. 1) is **DENIED**. There is no basis for a certificate of appealability.
4. The Clerk of Court shall mark this case closed.

¹ For the reasons stated by Judge Lloret, I agree that the state court's resolution of Petitioner's claim that counsel was ineffective for failing to raise self-defense or imperfect self-defense was not "unreasonable" under 28 U.S.C. § 2254(d). Petitioner's objections raise a new claim that the prosecution violated Brady v. Maryland, 373 U.S. 83 (1963), by withholding misconduct files on three police officers involved in the case. Because Petitioner's Brady claim was not in his petition, was not before Judge Lloret, and was not presented to the state courts, I do not reach it. See 28 U.S.C. § 2254(b)(1)(A).

BY THE COURT:

/s/ Mitchell S. Goldberg
MITCHELL S. GOLDBERG, J.